

COURT FILE NUMBER 25-2386427
25-2386434

COURT COURT OF QUEEN'S BENCH OF
ALBERTA IN BANKRUPTCY AND
INSOLVENCY

JUDICIAL CENTRE CALGARY

APPLICANT IN THE MATTER OF THE DIVISION I PROPOSAL
PROCEEDINGS OF ASPEN AIR CORPORATION
and ASPEN AIR U.S. CORP.

DOCUMENT ORDER

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT

McMillan LLP
Suite 1700, 421 - 7 Avenue S.W.
Calgary, AB T2P 4K9
Phone: 403-531-4700
Fax: 403-531-4720

Attention : Adam Maerov
Phone: 403-215-2752
Email: adam.maerov@mcmillan.ca

Kourtney Rylands
Phone: 403-355-3326
Email: kourtney.rylands@mcmillan.ca

File No. 258090



I hereby certify this to be a true copy of the
original order
of which it purports to be a copy.

Dated this 15 day of August, 2018
[Signature]
Registrar at Calgary
Bankruptcy Division of the
Court at Queen's Bench at Alberta

DATE ON WHICH ORDER WAS PRONOUNCED: August 15, 2018

LOCATION OF HEARING OR TRIAL: Calgary, Alberta

NAME OF MASTER/JUDGE WHO MADE THIS ORDER: Justice D.B. Nixon

UPON THE APPLICATION of Aspen Air Corporation (“**Aspen Air**”) and Aspen Air U.S. Corp. (“**Aspen Air US**”) (collectively, the “**Aspen Companies**”), AND UPON having read the Affidavit of Onkar Dhaliwal, sworn on August 10, 2018 (the “**August 10, 2018 Dhaliwal Affidavit**”), filed; AND UPON having read the Second and Third Reports of Deloitte Restructuring Inc. (the “**Proposal Trustee**”), filed; AND UPON having read the Affidavits of Service of David Tsumagari and Patricia Gibbar, each sworn August 15, 2018 (together, the “**Service Affidavit**”), filed; AND UPON hearing counsel for the Aspen Companies, counsel for the Proposal Trustee, counsel for Invico Diversified Income Fund Limited Partnership (“**Invico**”), and any counsel present for other parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. All capitalized terms used and not otherwise defined herein have the same meaning as in the Order of the Honourable Madam Justice Campbell made June 26, 2018 in this proceeding (the “**Initial Order**”).

SERVICE

2. The time for service of the corresponding Application and the August 10, 2018 Dhaliwal Affidavit, is abridged to the date parties were served, the Application is properly returnable today, service of the Application and the August 10, 2018 Dhaliwal Affidavit on the service list prepared by the Aspen Companies and maintained in these proceedings (the “**Service List**”), in the manner described in the Affidavit of Service, is validated, good and sufficient and no other persons are entitled to service of the August 10, 2018 Dhaliwal Affidavit or the Application.

CF INDEBTEDNESS

3. As at August 15, 2018, the Aspen Companies are indebted to CF Capital Corporation (“**CF Capital**”) in the amount of:

- (a) USD \$6,543,295.75 (the “**CF August 13 Indebtedness**”) in respect of the amended and restated letter loan agreement dated October 6, 2017 (the “**ATB Loan Agreement**”) between ATB Financial (“**ATB**”) and Aspen Air (subsequently assigned by ATB to CF Capital pursuant to an assignment agreement dated as of

July 16, 2018 between ATB and CF Capital inclusive of legal fees and other costs and expenses, together with interest accrued after August 13, 2018 in accordance with the ATB Loan Agreement, currently accruing at a rate of \$1,743.13 per day (the “**CF Post-August 13 Interest**”);

- (b) in addition to the legal fees, costs and expenses included in the CF August 13 Indebtedness, reasonable and incidental legal fees and other costs and expenses incurred by CF Capital until the payment of the CF Indebtedness (as defined below), such amount not to exceed \$10,000 (the “**CF Post-August 13 Fees**”); and
- (c) CAD \$10,000.00 (the “**CF DIP Fees**”, and together with the CF August 13 Indebtedness, the CF Post-August 13 Interest and the CF Post-August 13 Fees, the “**CF Indebtedness**”) in respect of the Exit Fee and Commitment Fee pursuant to the DIP financing term sheet dated June 22, 2018 between the Aspen Companies and CF Capital.

INVICO LOAN FACILITY

4. The execution of the loan agreement (the “**Invico Loan Agreement**”), dated August 10, 2018, between the Aspen Companies and Invico is hereby approved, and the Aspen Companies are hereby authorized and empowered to perform their obligations under the Invico Loan Agreement and to obtain and borrow funds pursuant to the Invico Loan Agreement in order to repay the CF Indebtedness. A copy of the Invico Loan Agreement is attached hereto as Schedule “A”.

ASSIGNMENT OF SECURITY

5. Aspen Air is hereby authorized and directed to pay the CF Indebtedness forthwith to CF Capital.

6. Upon payment of the CF Indebtedness to CF Capital, as set out in paragraph 5 of this Order, all of the security interests granted by the Aspen Companies in favour of ATB and assigned by ATB to CF Capital (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens,

executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**CF Capital Security**”) as against the Property shall be assigned to and vest absolutely in Invico in accordance with the direction by Aspen Air dated August 10, 2018.

7. Upon payment of the CF Indebtedness to CF Capital, as set out in paragraph 5 of this Order, CF Capital, and all persons who claim, by, through or under CF Capital in respect of the ATB Loan Agreement and the CF Capital Security shall stand absolutely barred and foreclosed from all estate, right, title and interest in the ATB Loan Agreement and the CF Capital Security.

8. Notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Aspen Companies and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Aspen Companies;

the assignment and vesting of the CF Capital Security pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of either of the Aspen Companies and shall not be void or voidable by creditors of the Aspen Companies, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. Upon payment of the CF Indebtedness to CF Capital, as set out in paragraph 5 of this Order, CF Capital is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable to effect the assignment and vesting of the CF Capital Security pursuant to this Order, including, without limiting the generality of the foregoing:

- (a) the assignment or transfer of any registrations pursuant to the *Personal Property Security Act* (Alberta), Article 9 of the Uniform Commercial Code, or any other personal property registry system; and
- (b) the assignment or transfer of any registrations of any charges in any land registry system.

THE INVICO DIP FACILITY

10. The execution of the interim financing credit agreement (the “**Invico DIP Credit Agreement**”), dated August 10, 2018, between the Aspen Companies and Invico is hereby approved, and the Aspen Companies are hereby authorized and empowered to perform their obligations under the Invico DIP Credit Agreement and to obtain and borrow funds pursuant to the Invico DIP Credit Agreement, in order to finance the Aspen Companies’ working capital requirements and other general corporate purposes and capital expenditures. Borrowings under the credit facility granted pursuant to the Invico DIP Credit Agreement (the “**Invico DIP Facility**”) shall not exceed the principal amount of CAD \$250,000.00 unless permitted by further Order of this Court. A copy of the Invico DIP Credit Agreement is attached hereto as Schedule “B”.

11. The Invico DIP Facility shall be on substantially the same terms and subject to the conditions set out in the Invico DIP Credit Agreement, together with any such modifications or amendments as may be agreed upon by the Aspen Companies and Invico and consented to by the Proposal Trustee.

12. The Aspen Companies and Invico are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, pledge agreements, security agreements, hypothecs and security documents, guarantees and other definitive documents (such documents, collectively with the Invico DIP Credit Agreement, the “**Definitive Documents**”), as are contemplated by the Invico DIP Credit Agreement or as may be reasonably required by Invico pursuant to the terms thereof together with such modifications as may be agreed upon by the Companies and Invico and consented to by the Proposal Trustee, and the Aspen Companies are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees,

liabilities and obligations to Invico under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

13. Upon payment of the CF Indebtedness to CF Capital, as set out in paragraph 5 of this Order, Invico shall be entitled to the benefit of and is hereby granted a charge (the “**Invico DIP Charge**”) on the Property to secure all obligations under the Definitive Documents incurred on or after the date of this Order in an amount not to exceed CAD \$250,000.

14. Upon payment of the CF Indebtedness to CF Capital, as set out in paragraph 5 of this Order, the Initial Order shall be varied such that CF Capital shall be replaced as DIP Lender by Invico and in order to effect same, the Initial Order is hereby amended on the following terms:

- (a) paragraphs 5 through 8, inclusive, of the Initial Order shall be deleted in their entirety and replaced with paragraphs 10 through 13, inclusive, of this Order; and
- (b) all other references to the “DIP Lender” in the Initial Order shall refer to “Invico” and all references to “DIP Lender’s Charge” in the Initial Order shall refer to the “Invico DIP Charge”.

AID AND RECOGNITION

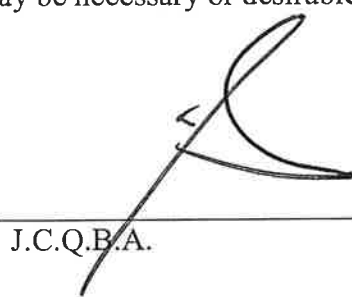
15. This Court requests the aid and recognition of any Court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or in the United States of America, including the United States Bankruptcy Court for the District of Montana, and any court or administrative body elsewhere, to give effect to this Order and to assist the Aspen Companies, the Proposal Trustee, Invico and their respective agents in carrying out the terms of this Order. All Courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Aspen Companies, the Proposal Trustee and Invico as may be necessary or desirable to give effect to this Order or to assist the Aspen Companies, the Proposal Trustee, Invico and their respective agents in carrying out the terms of this Order.

MISCELLANEOUS MATTERS

16. The Aspen Companies, Invico, CF Capital and Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable to give effect to this Order.

17. Service of this Order by email, facsimile, registered mail, courier or personal delivery to the persons listed on the Service List shall constitute good and sufficient service of this Order, and no persons other than those listed on the Service List are entitled to be served with a copy of this Order.

18. The Aspen Companies, the Proposal Trustee or Invico have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.



J.C.Q.B.A.

SCHEDULE "A"
INVICO LOAN AGREEMENT

August 10, 2018

Aspen Air Corporation
200, 10500 - 48 Street SW
Calgary AB T2C 2B7

Attention: Onkhar Dhaliwal

Dear Sir:

Invico Diversified Income Fund Limited Partnership has approved and offers financial assistance on the terms and conditions in the attached Commitment Letter.

You may accept our offer by returning the enclosed duplicate of this letter, signed as indicated below, by 4:00 p.m. on or before August 15, 2018 or our offer will automatically expire. This letter may be executed electronically; this letter may be delivered by email, facsimile or other functionally-equivalent electronic means. We reserve the right to cancel our offer at any time prior to acceptance.

Thank you for your business.

Yours truly,

INVICO DIVERSIFIED INCOME FUND LIMITED PARTNERSHIP

By: 

By: 

Encl.

Accepted this ____ day of August, 2018

Aspen Air Corporation

Aspen Air U.S. Corp. (Guarantor)

Per: _____

Per: _____

Per: _____

Per: _____

August 10, 2018

Aspen Air Corporation
200, 10500 - 48 Street SW
Calgary AB T2C 2B7

Attention: Onkhar Dhaliwal

Dear Sir:

Invico Diversified Income Fund Limited Partnership has approved and offers financial assistance on the terms and conditions in the attached Commitment Letter.

You may accept our offer by returning the enclosed duplicate of this letter, signed as indicated below, by 4:00 p.m. on or before August 15, 2018 or our offer will automatically expire. This letter may be executed electronically; this letter may be delivered by email, facsimile or other functionally-equivalent electronic means. We reserve the right to cancel our offer at any time prior to acceptance.

Thank you for your business.

Yours truly,

INVICO DIVERSIFIED INCOME FUND LIMITED PARTNERSHIP

By: _____


By: _____

Encl.

Accepted this 10 day of August, 2018

Aspen Air Corporation

Aspen Air U.S. Corp. (Guarantor)

Per: 

Per: 

Onkar Dhaliwal

Onkar Dhaliwal

Per: **President & CEO**

Per: **President & CEO**

COMMITMENT LETTER

LENDER: INVICO DIVERSIFIED INCOME FUND LIMITED PARTNERSHIP
BORROWER: ASPEN AIR CORPORATION
GUARANTOR: ASPEN AIR U.S. CORP.

1. **AMOUNTS AND TYPES OF FACILITIES (EACH REFERRED TO AS A "FACILITY")**

Facility #1 - Non-Revolving Reducing Loan Facility U.S. dollars \$6,750,000

- Facility #1 may be utilized in a single draw by way of U.S. Prime-based loans in U.S. dollars.
- Facility #1 is non-revolving. Amounts repaid may not be reborrowed.

2. **INTEREST RATES AND PREPAYMENT:**

Facility #1:

- Pricing applicable to Facility #1 is as follows:
 - U.S. Prime-based loans: Interest is payable in U.S. dollars at U.S. Prime plus 2.00% per annum
- Facility #1 may be prepaid in whole or in part at any time (subject to the notice periods provided hereunder) without penalty.

3. **REPAYMENT:**

Facility #1:

- Facility #1 is payable in full on demand by Lender, and Lender may terminate the availability thereof (including any undrawn portion) at any time without notice.

4. **FEES:**

- Any amount in excess of established credit facilities may be subject to a fee where Lender in its sole discretion permits excess Borrowings, if any.
- For reports or statements not received within the stipulated periods (and without limiting Lender's rights by virtue of such default), Borrower will be subject to a fee of \$50 per month (per monthly or quarterly report or statement) and \$250 per month (per annual report or statement) for each late reporting occurrence, which will be deducted from Borrower's account.

5. **SECURITY DOCUMENTS:**

All Security Documents (collectively referred to as the "**Security Documents**") shall secure all Facilities and all other obligations of Borrower to Lender (whether present or future, direct or indirect, contingent or matured).

The parties acknowledge that the following Security Documents are currently held by CF Capital Corporation (as assignee from ATB Financial) and that (i) such Security Documents shall be assigned to Lender as security for the obligations to Lender hereunder pursuant to a direction

from Borrower, or (ii) Borrower and Guarantor shall execute in favour of Lender new Security Documents on substantially the same terms as the security documents set out below:

- (a) General Security Agreement from Borrower providing a security interest over all present and after acquired personal property and a floating charge on all lands;
- (b) Pledge agreement granted by Borrower in favour of Lender in respect of Borrower's shares in Aspen Air U.S. Corp
- (c) Continuing Guarantee from Aspen Air U.S. Corp. - unlimited, supported by:
 - General Security Agreement providing a security interest over all: equipment, machinery, goods, inventory, vehicles, software, accounts, general intangibles, chattel paper, deposit accounts, documents, fixtures, instruments, negotiable instruments, commercial tort claims and leases;
 - Deed of Trust and Security Agreement securing the principal sum of CAD \$10,000,000 and granting a charge in respect of real property legally described as:

Parcel 1: Township 1 North, Range 26 East, P.M.M. Section 26: That portion of the SE1/4 described as Certificate of Survey #573 on file in the office of the Yellowstone Clerk and Recorder under Document #503778;

Parcel 2: Township 1 North, Range 26 East, P.M.M. Section 26: That portion of the SE1/4 described as Tract 2-B of Amended Tract 2 of Certificate of Survey No. 2595 on file in the office of the Yellowstone Clerk and Recorder under Document #3432589; and
- (d) Title Insurance in the amount of \$8,500,000.00.

The Security Documents are to be registered in the following jurisdictions: Alberta and Montana.

6. REPRESENTATIONS AND WARRANTIES:

Borrower represents and warrants to Lender that:

- (a) if a Loan Party is a corporation, it is a corporation duly incorporated, validly existing and duly registered or qualified to carry on business in its jurisdiction of incorporation, and in each other jurisdiction where it carries on any material business;
- (b) if a Loan Party is a partnership, it is a partnership duly created, validly existing and duly registered or qualified to carry on business in its jurisdiction of formation, and in each other jurisdiction where it carries on any material business;
- (c) except for the approval of the Court described in paragraph 15, the execution, delivery and performance by each Loan Party of this agreement and each Security Document to which it is a party have been duly authorized by all

necessary actions and do not violate its governing documents or any applicable laws or agreements to which it is subject or by which it is bound;

- (d) no event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute, a breach of any provision of this agreement or any Security Document given in connection herewith;
- (e) the most recent financial statements of Borrower and, if applicable, any Guarantor, provided to Lender fairly present its financial position as of the date thereof and its results of operations and cash flows for the fiscal period covered thereby, and since the date of such financial statements, there has occurred no material adverse change in its business or financial condition;
- (f) each Loan Party has good and marketable title to all of its properties and assets, free and clear of any encumbrances, other than Permitted Encumbrances;
- (g) each Loan Party is in compliance in all material respects with all applicable laws including, without limitation, all environmental laws, and there is no existing material impairment to its properties and assets as a result of environmental damage, except to the extent disclosed in writing to Lender and acknowledged by Lender; and
- (h) Borrower has no Subsidiaries other than Aspen Air U.S. Corp.

All representations and warranties are deemed to be repeated by Borrower on each request for an advance hereunder.

7. POSITIVE COVENANTS:

Borrower covenants with Lender that so long as it is indebted or otherwise obligated (contingently or otherwise) to Lender, it will do and perform the following covenants. If any such covenant is to be done or performed by a Guarantor, Borrower also covenants with Lender to cause Guarantor to do or perform such covenant.

- (a) Borrower will pay to Lender when due all amounts (whether principal, interest or other sums) owing by it to Lender from time to time;
- (b) Borrower will assign or deliver to Lender the Security Documents, in all cases in form and substance satisfactory to Lender and Lender's solicitor;
- (c) Borrower will ensure that at least 95% of its consolidated assets are held by those Loan Parties which have provided security in favour of Lender;
- (d) Borrower will use the proceeds of loans only for the purposes approved by Lender;
- (e) each Loan Party will maintain its valid existence as a corporation or partnership, as the case may be, and except to the extent any failure to do so could not reasonably be expected to have a Material Adverse Effect, will maintain all licenses and authorizations required from regulatory or governmental authorities

or agencies to permit it to carry on its business, including, without limitation, any licenses, certificates, permits and consents for the protection of the environment;

- (f) each Loan Party will maintain appropriate books of account and records relative to the operation of its business and financial condition;
- (g) each Loan Party will maintain and defend title to all of its property and assets, will maintain, repair and keep in good working order and condition all of its property and assets and will continuously carry on and conduct its business in a proper, efficient and businesslike manner;
- (h) each Loan Party will maintain appropriate types and amounts of insurance with Lender shown as first loss payee on any property insurance covering any assets on which Lender has security, and promptly advise Lender in writing of any significant loss or damage to its property;
- (i) each Loan Party will provide evidence of insurance to Lender:
 - (i) in situations where Lender has taken a fixed charge on an asset or property whether on real property or personal property; and
 - (ii) in all other situations, on request;
- (j) each Loan Party will permit Lender, by its officers or authorized representatives at any reasonable time and on reasonable prior notice, to enter its premises and to inspect its plant, machinery, equipment and other real and personal property and their operation, and to examine and copy all of its relevant books of accounts and records;
- (k) except when contested in good faith and adequate reserves have been made in accordance with GAAP, each Loan Party will remit all sums when due to tax and other governmental authorities (including, without limitation, any sums in respect of employees and GST), and upon request, will provide Lender with such information and documentation in respect thereof as Lender may reasonably require from time to time;
- (l) each Loan Party will comply with all applicable laws, including without limitation, environmental laws, except to the extent any failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (m) Borrower will promptly advise Lender in writing, giving reasonable details, of (i) the discovery of any contaminant or any spill, discharge or release of a contaminant into the environment from or upon any property of a Loan Party which could reasonably be expected to result in a Material Adverse Effect, (ii) any event which constitutes, or which with notice, lapse of time or both, would constitute a breach of any provision hereof or of any Security Documents, and (iii) each event which has or is reasonably likely to have a Material Adverse Effect; and
- (n) Borrower undertakes that, upon request from Lender, Borrower will grant a fixed mortgage and charge to Lender on any or all real property of Borrower so

designated by Lender. Borrower shall promptly provide to Lender all information reasonably requested by Lender to assist it in that regard. Borrower acknowledges that this undertaking constitutes present and continuing security in favour of Lender, and that Lender may file such caveats, security notices or other filings in regard thereto at any time and from time to time as Lender may determine.

8. NEGATIVE COVENANTS:

Borrower covenants with Lender that while it is indebted or otherwise obligated (contingently or otherwise) to Lender, it will not do any of the following, without the prior written consent of Lender. If a Guarantor is not to do an act, Borrower also covenants with Lender not to permit Guarantor to do such act.

- (a) a Loan Party will not create or permit to exist any mortgage, charge, lien, encumbrance or other security interest on any of its present or future assets, other than Permitted Encumbrances;
- (b) a Loan Party will not create, incur, assume or allow to exist any Indebtedness other than:
 - (i) trade payables incurred in the ordinary course of business;
 - (ii) any Indebtedness owing to another Loan Party (but only if that Loan Party has provided security in favour of Lender);
 - (iii) any Indebtedness secured by a Permitted Encumbrance;
 - (iv) any unsecured loans or advances from affiliates/shareholders which are subordinated to the Facilities on terms satisfactory to Lender; and
 - (v) any Indebtedness owing to Lender;
- (c) a Loan Party will not sell, lease or otherwise dispose of any assets except (i) inventory sold, leased or otherwise disposed of in the ordinary course of business, (ii) obsolete, worn out or surplus property not used or necessary in its business, (iii) assets sold, leased or otherwise disposed of to another Loan Party (but only if that Loan Party has provided security in favour of Lender), and (iv) assets sold, leased or disposed of during a fiscal year having an aggregate fair market value not exceeding \$175,000 for such fiscal year;
- (d) a Loan Party will not provide financial assistance (by means of a loan, guarantee or otherwise) to any person (other than Lender) other than loans permitted under clause (b) above;
- (e) a Loan Party will not pay to or for the benefit of shareholders or persons associated with shareholders (within the meaning of the Alberta Business Corporations Act) by way of salaries, bonuses, dividends, management fees, repayment of loans or otherwise, any amount which would cause a breach of a provision hereof, other than amounts paid in the ordinary course if such

shareholders or persons are bona fide employees on the payroll of such Loan Party;

- (f) a Loan Party will not reduce its capital or redeem, purchase or otherwise acquire, retire or pay off any of its present or future share capital other than to another Loan Party;
- (g) a Loan Party will not amalgamate, consolidate, or merge with any person other than a Loan Party and then only if no default or event of default is then in existence or would thereafter be in existence, and will not enter into any partnership with any other person unless the partnership becomes a Loan Party hereunder and provides security in favour of Lender;
- (h) a Loan Party will not consent to or facilitate a change in the ownership of its shares or allow a material change in its management without the prior written consent of Lender;
- (i) a Loan Party will not acquire any assets in, or move or allow any of its assets to be moved to, a jurisdiction where Lender has not registered or perfected the Security Documents;
- (j) a Loan Party will not change the present nature of its business in any material respect;
- (k) Borrower will not operate accounts with or otherwise conduct any banking business with any financial institution other than ATB Financial or, in respect of Aspen Air U.S. Corp., Wells Fargo, other than to the extent expressly permitted in the definition of Permitted Encumbrances hereunder;
- (l) a Loan Party will not enter into any Hedging Agreement which is not used for risk management in relation to its business or which is not entered into in the ordinary course of its business but is entered into for speculative purposes, or which, in the case of commodity swaps or similar transactions of either a financial or physical nature, have a term exceeding two years;
- (m) a Loan Party will not allow any pollutant (including any pollutant now on, under or about such land) to be placed, handled, stored, disposed of or released on, under or about any of its lands unless done in the normal course of its business and then only as long as it complies with all applicable laws in placing, handling, storing, transporting, disposing of or otherwise dealing with such pollutants, except to the extent any failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (n) Borrower will not utilize Borrowings to finance a hostile takeover; and
- (o) Borrower will not make any interest payments to the subordinated debenture holders without the prior written consent of Lender.

9. **REPORTING COVENANTS:**

Borrower will provide to Lender:

- (a) within 120 days after the end of each of its fiscal years:
 - (i) financial statements of Borrower for that fiscal year on a review engagement basis and on a consolidated basis prepared by a firm of qualified accountants. Lender reserves the right to require audited financial statements; and
 - (ii) a compliance certificate executed by a senior officer of Borrower in the form attached hereto as Schedule "A";
- (b) within 30 days following the end of each calendar month:
 - (i) internally produced consolidated financial statements of Borrower for that month; and
 - (ii) a compliance certificate executed by a senior officer of Borrower in the form attached hereto as Schedule "A";
- (c) within 60 days before the end of each of its fiscal year ends, annual capital and revenue budgets from Borrower for the next following fiscal year;
- (d) within 15 days following the end of each calendar month, a cash flow reporting package, including an internal bank reconciliation for the Wells Fargo account, a copy of Wells Fargo account statement for Aspen Air U.S. Corp., and a 16-week cash flow forecast;
- (e) on request, any further information regarding its assets, operations and financial condition that Lender may from time to time reasonably require.

10. RESERVED

11. AUTHORIZATIONS AND SUPPORTING DOCUMENTS

Borrower has delivered or will deliver the following authorizations and supporting documents to Lender:

- Corporate Borrower:
 - (a) Incorporation documents including Certificate of Incorporation, Articles of Incorporation (including any amendments) and last Notice of Directors;
- Corporate Guarantors:
 - (a) Corporate Guarantee Resolution;
 - (b) Incorporation documents including Certificate of Incorporation, Articles of Incorporation (including any amendments) and last Notice of Directors;

12. **DRAWDOWNS, PAYMENTS AND EVIDENCE OF INDEBTEDNESS**

- Interest on U.S. Prime-based loans is calculated on the daily outstanding principal balance, and is payable on the last day of each month.
- If revolving of loans is permitted hereunder, principal advances and repayments on Prime-based loans and U.S. Prime-based loans are to be in the minimum sum of Cdn. or U.S. \$10,000.00 or multiples of it.
- If Letters of Credit are available hereunder, the term of each Letter of Credit shall not exceed one (1) year, although automatic extensions thereof (unless notified by Lender) are permitted. On any demand being made by a beneficiary for payment under a Letter of Credit, the amount so paid shall be automatically deemed to be outstanding as a Prime-based loan (if denominated in Canadian dollars) or U.S. Prime-based loan (if denominated in U.S. dollars) under the relevant Facility.
- Borrower shall monitor its Borrowings (including the face amount and maturity date of each Letter of Credit) to ensure that the Borrowings hereunder do not exceed the maximum amount available hereunder.
- Borrower shall provide notice to Lender prior to requesting an advance or making a repayment or conversion of Borrowings hereunder, as follows:
- For Borrowings:
 - under Cdn. \$5,000,000 - same day notice
 - Cdn. \$5,000,000 and over - one Business Day prior written notice
- Borrower may cancel the availability of any unused portion of a Facility on five Business Days' notice. Any such cancellation is irrevocable.
- The annual rates of interest or fees to which the rates calculated in accordance with this agreement are equivalent, are the rates so calculated multiplied by the actual number of days in the calendar year in which such calculation is made and divided by 365.
- If the amount of Borrowings outstanding under any Facility, when converted to the Equivalent Amount in Canadian dollars, exceeds the amount available under such Facility, Borrower shall, unless Lender otherwise agrees in its sole discretion, immediately repay such excess to Lender.
- If any amount due hereunder is not paid when due, Borrower shall pay interest on such unpaid amount (including without limitation, interest on interest) if and to the fullest extent permitted by applicable law, at a rate per annum equal to Prime plus 5% (if such amount is payable in Canadian dollars) or U.S. Prime plus 5% (if such amount is payable in U.S. dollars).

13. **MISCELLANEOUS:**

- (a) All legal and other costs and expenses incurred by Lender in respect of the Facilities, the Security Documents and other related matters will be paid or reimbursed by Borrower on demand by Lender.
- (b) All Security Documents will be prepared by or under the supervision of Lender's solicitors, unless Lender otherwise permits. Acceptance of this offer will authorize Lender to instruct Lender's solicitors to prepare all necessary Security Documents and proceed with related matters.
- (c) Lender, without restriction, may waive in writing the satisfaction, observance or performance of any of the provisions of this Commitment Letter. The obligations of a Guarantor (if any) will not be diminished, discharged or otherwise affected by or as a result of any such waiver, except to the extent that such waiver relates to an obligation of such Guarantor. Any waiver by Lender of the strict performance of any provision hereof will not be deemed to be a waiver of any subsequent default, and any partial exercise of any right or remedy by Lender shall not be deemed to affect any other right or remedy to which Lender may be entitled.
- (d) Borrower shall reimburse Lender for any additional cost or reduction in income arising as a result of (i) the imposition of, or increase in, taxes on payments due to Lender hereunder (other than taxes on the overall net income of Lender), (ii) the imposition of, or increase in, any reserve or other similar requirement, (iii) the imposition of, or change in, any other condition affecting the Facilities imposed by any applicable law or the interpretation thereof.
- (e) Lender is authorized but not obligated, at any time, to apply any credit balance, whether or not then due, to which Borrower or Guarantor is entitled on any account in any currency at any branch or office of Lender in or towards satisfaction of the obligations of Borrower or such Guarantor due to Lender under this agreement or any guarantee granted in support hereof, as applicable. Lender is authorized to use any such credit balance to buy such other currencies as may be necessary to effect such application.
- (f) Words importing the singular will include the plural and vice versa, and words importing gender will include the masculine, feminine and neuter, and anything importing or referring to a person will include a body corporate and a partnership and any entity, in each case all as the context and the nature of the parties requires.
- (g) Where more than one person is liable as Borrower (or as a Guarantor) for any obligation hereunder, then the liability of each such person for such obligation is joint and several with each other such person.
- (h) If any portion of this agreement is held invalid or unenforceable, the remainder of this agreement will not be affected and will be valid and enforceable to the fullest extent permitted by law. In the event of a conflict between the provisions hereof and of any Security Document, the provisions hereof shall prevail to the extent of the conflict.
- (i) Where the interest rate for a credit is based on Prime or on U.S. Prime, the applicable rate on any day will depend on the Prime or U.S. Prime rate in effect

on that day, as applicable. The statement by Lender as to Prime or U.S. Prime and as to the rate of interest applicable to a credit on any day will be binding and conclusive for all purposes. All interest rates specified are nominal annual rates. The effective annual rate in any case will vary with payment frequency. All interest payable hereunder bears interest as well after as before maturity, default and judgment with interest on overdue interest at the applicable rate payable hereunder. To the extent permitted by law, Borrower waives the provisions of the *Judgment Interest Act* (Alberta).

- (j) Any written communication which a party may wish to serve on any other party may be served personally (in the case of a body corporate, on any officer or director thereof) or by leaving the same at or couriering or mailing the same by registered mail to the Branch of Account (for Lender) or to the last known address (for Borrower or any Guarantor), and in the case of mailing will be deemed to have been received two (2) Business Days after mailing except in the case of postal disruption.
- (k) Unless otherwise specified, references herein to "\$" and "dollars" mean Canadian dollars. References to "U.S.\$" and "U.S. dollars" means the lawful currency of the United States of America.
- (l) If for the purpose of obtaining judgment in any court in any jurisdiction with respect to this Agreement, it is necessary to convert into the currency of such jurisdiction (the "**Judgment Currency**") any amount due hereunder in any currency other than the Judgment Currency, then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgment is given. For this purpose, rate of exchange means the rate at which Lender would, on the relevant date, be prepared to sell a similar amount of such currency against the Judgment Currency, in accordance with normal banking procedures. In the event that there is a change in the rate of exchange prevailing between the Business Day before the day on which judgment is given and the date of payment of the amount due, Borrower will, on the date of payment, pay such additional amounts as may be necessary to ensure that the amount paid on such day is the amount in the Judgment Currency which, when converted at the rate of exchange prevailing on the date of payment, is the amount then due under this Agreement in such other currency. Any additional amount due from Borrower under this paragraph will be due as a separate debt and shall not be affected by judgment being obtained for any other sums due in connection with this Agreement.
- (m) Lender shall have the right to assign, sell or participate its rights and obligations in the Facilities or in any Borrowing thereunder, in whole or in part, to one or more persons, provided that the consent of Borrower shall be required if no default is then in existence, such consent not to be unreasonably withheld or delayed.
- (n) Borrower shall indemnify Lender against all losses, liabilities, claims, damages or expenses (including without limitation legal expenses on a solicitor and his own client basis) (i) incurred in connection with the entry into, performance or enforcement of this agreement, the use of the Facility proceeds or any breach by Borrower or any Guarantor of the terms hereof or any document related hereto,

or (ii) arising out of or in respect of: (A) the release of any hazardous or toxic waste or other substance into the environment from any property of Borrower or any of its Subsidiaries, and (B) the remedial action (if any) taken by Lender in respect of any such release, contamination or pollution. This indemnity will survive the repayment or cancellation of any of the Facilities or any termination of this agreement.

- (o) For certainty, the permission to create a Permitted Encumbrance shall not be construed as a subordination or postponement, express or implied, of Lender's Security Documents to such Permitted Encumbrance.
- (p) Each accounting term used hereunder, unless otherwise defined herein, has the meaning assigned to it under GAAP consistently applied. If there occurs a change in generally accepted accounting principles (an "**Accounting Change**"), including as a result of a conversion to International Financial Reporting Standards, and such change would result in a change (other than an immaterial change) in the calculation of any financial covenant, standard or term used hereunder, then at the request of Borrower or Lender, Borrower and Lender shall enter into negotiations to amend such provisions so as to reflect such Accounting Change with the result that the criteria for evaluating the financial condition of Borrower or any other party, as applicable, shall be the same after such Accounting Change, as if such Accounting Change had not occurred. If, however, within 30 days of the foregoing request by Borrower or Lender, Borrower and Lender have not reached agreement on such amendment, the method of calculation shall not be revised and all amounts to be determined thereunder shall be determined without giving effect to the Accounting Change.
- (q) Borrower's information, corporate or personal, may be subject to disclosure without its consent pursuant to provincial, federal, national or international laws as they apply to the product or service Borrower has with Lender or any third party acting on behalf of or contracting with Lender.
- (r) Borrower acknowledges that the terms of this agreement are confidential, and Borrower agrees not to disclose the terms hereof or provide a copy hereof to any person without the prior written consent of Lender, unless and to the extent required by applicable law, which applicable law includes disclosure to the Court and any interested parties in connection with the application to the Court for approval of this agreement.
- (s) Time shall be of the essence in all provisions of this agreement.
- (t) This agreement may be executed in counterpart.
- (u) This agreement shall be governed by the laws of Alberta.

14. **NEXT REVIEW DATE:**

All demand Facilities are subject to review by Lender at any time in its sole discretion, and at least annually.

15. **COURT APPROVAL**

The transactions contemplated by this Commitment Letter are subject to approval by the Court. In the event that this Commitment Letter is not approved by the Court on or before August 15, 2018 on terms satisfactory to Lender, Borrower and Guarantor then this Commitment Letter shall be of no force or effect

16. DEFINITIONS:

"Borrowings" means all amounts outstanding under the Facilities, or if the context so requires, all amounts outstanding under one or more of the Facilities or under one or more borrowing options of one or more of the Facilities.

"Business Day" means a day, excluding Saturday and Sunday, on which banking institutions are open for business in the province of Alberta.

"Court" means the Court of Queen's Bench of Alberta in Bankruptcy and Insolvency.

"Effective Date" means the date upon which Lender has confirmed that all conditions precedent to the availability of the Facilities have been satisfied, in each case in form and substance satisfactory to Lender, acting reasonably, unless waived by Lender.

"Equivalent Amount" means, with respect to an amount of any currency, the amount of any other currency required to purchase that amount of the first mentioned currency through Lender in accordance with normal banking procedures.

"Generally Accepted Accounting Principles" or "GAAP" means, at any time, those generally accepted accounting principles which are in effect in Canada, from time to time, applied in a consistent manner from period to period (on an Accounting Standards for Private Enterprises' basis).

"Guarantor" means any party that has provided a guarantee in favour of Lender with respect to the Borrowings hereunder.

"Hedging Agreement" means any swap, hedging, interest rate, currency, foreign exchange or commodity contract or agreement, or confirmation thereunder, entered into from time to time in connection with:

- (a) interest rate swaps, forward rate transactions, interest rate options, cap transactions, floor transactions and similar rate-related transactions;
- (b) forward rate agreements, foreign exchange forward agreements, cross currency transactions and other similar currency-related transactions; or
- (c) commodity swaps, hedging transactions and other similar commodity-related transactions (whether physically or financially settled), including without limitation commodity swaps; the purpose of which is to hedge (a) interest rate, (b) currency exchange, and/or (c) commodity price exposure, as the case may be.

"Indebtedness" means all present and future obligations and indebtedness of a person, whether direct or indirect, absolute or contingent, including all indebtedness for borrowed

money, all obligations in respect of swap or hedging arrangements and all other liabilities which in accordance with GAAP would appear on the liability side of a balance sheet (other than items of capital, retained earnings and surplus or deferred tax reserves).

"Letter of Credit" means a standby or documentary letter of credit or letter of guarantee issued by the Lender on behalf of the Borrower.

"Loan Parties" means the Borrower and all Guarantors, other than any Guarantors that are natural persons, and **"Loan Party"** means any of them.

"Material Adverse Effect" means a material adverse effect on:

- (a) the financial condition of Borrower or of any Guarantor; or
- (b) the ability of Borrower or any Guarantor to repay amounts owing hereunder or under its guarantee in respect hereof.

"Permitted Encumbrances" means, in respect of the Borrower and any Guarantor, the following:

- (a) liens for taxes, assessments or governmental charges not yet due or delinquent or the validity of which is being contested in good faith;
- (b) liens arising in connection with workers' compensation, unemployment insurance, pension, employment or other social benefits laws or regulations which are not yet due or delinquent or the validity of which is being contested in good faith;
- (c) liens under or pursuant to any judgment rendered or claim filed which are or will be appealed in good faith provided any execution thereof has been stayed;
- (d) undetermined or inchoate liens and charges incidental to construction or current operations which have not at such time been filed pursuant to law or which relate to obligations not due or delinquent;
- (e) liens arising by operation of law such as builders' liens, carriers' liens, materialmen's liens and other liens of a similar nature which relate to obligations not due or delinquent;
- (f) easements, rights-of-way, servitudes or other similar rights in land (including, without in any way limiting the generality of the foregoing, rights-of-way and servitudes for railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) granted to or reserved or taken by other persons which singularly or in the aggregate do not materially detract from the value of the land concerned or materially impair its use in the operation of the business of Borrower or such Guarantor;
- (g) security given to a public utility or any municipality or governmental or other public authority when required by such utility or municipality or other authority in connection with the operations of Borrower or such Guarantor, all in the ordinary

course of its business which singularly or in the aggregate do not materially impair the operation of the business of Borrower or such Guarantor;

- (h) the reservation in any original grants from the Crown of any land or interests therein and statutory exceptions to title;
- (i) operating leases;
- (j) capital lease transactions (according to GAAP) or sale-leaseback transactions where the indebtedness represented by all such transactions does not at any time exceed \$375,000 in aggregate;
- (k) security interests granted or assumed to finance the purchase of any property or asset (a "**Purchase Money Security Interest**") where:
 - (i) the security interest is granted at the time of or within 60 days after the purchase,
 - (ii) the security interest is limited to the property and assets acquired, and
 - (iii) the indebtedness represented by all Purchase Money Security Interests does not at any time exceed \$100,000 in aggregate;
- (l) security interests or liens (other than those hereinbefore listed) of a specific nature (and excluding for greater certainty floating charges) on properties and assets having a fair market value not in excess of \$100,000 in aggregate; and
- (m) the Administration Charge, DIP Lender's Charge and D&O Charge set out in the Order of the Court dated June 26, 2018 as same may be amended from time to time with the consent of the Lender

"Prime" means the prime lending rate per annum established by Lender from time to time for commercial loans denominated in Canadian dollars made by Lender in Canada.

"Subsidiaries" means

- (a) a person of which another person alone or in conjunction with its other subsidiaries owns an aggregate number of voting shares sufficient to elect a majority of the directors regardless of the manner in which other voting shares are voted; and
- (b) a partnership of which at least a majority of the outstanding income interests or capital interests are directly or indirectly owned or controlled by such person, and includes a person in like relation to a Subsidiary.

"U.S. Prime" means the prime lending rate per annum established by Lender from time to time for commercial loans denominated in U.S. dollars made by Lender in Canada.

SCHEDULE "A"
FORM OF COMPLIANCE CERTIFICATE

To: Invico Diversified Income Fund Limited Partnership
●
Calgary, AB T2P ●
Attention: ●

I _____ hereby certify as of the date of this certificate as follows:

- (a) I am the _____ *[insert title]* of Aspen Air Corporation ("**Borrower**") and I am authorized to provide this certificate to you for and on behalf of Borrower.
- (b) This certificate applies to the [month/fiscal quarter/fiscal year] ending _____.
- (c) I am familiar with and have examined the provisions of the letter agreement (the "**Agreement**") dated August 8, 2018 between the Borrower and Invico Diversified Income Fund Limited Partnership ("**Lender**"), as lender, and have made reasonable investigations of corporate records and inquiries of other officers and senior personnel of Borrower and of any Guarantor. Terms defined in the Agreement have the same meanings when used in this certificate.
- (d) No event or circumstance has occurred which constitutes or which, with the giving of notice, lapse of time, or both, would constitute a breach of any covenant or other term or condition of the Agreement and there is no reason to believe that during the next fiscal quarter of Borrower, any such event or circumstance will occur.

OR

We are or anticipate being in default of the following terms or conditions, and our proposed action to meet compliance is set out below:

Description of any breaches and proposed action to remedy: _____
_____.

This certificate is given by the undersigned officer in his/her capacity as an officer of Borrower without any personal liability on the part of such officer.

This certificate may be executed electronically; this certificate may be delivered by email, facsimile or other functionally-equivalent means.

Dated this _____ day of _____, 20____.

Aspen Air Corporation

Per: _____

Name: _____

Title: _____

SCHEDULE “B”
INVICO DIP CREDIT AGREEMENT

INTERIM FINANCING CREDIT AGREEMENT

This interim financing credit agreement dated August 10, 2018 between **Aspen Air Corporation** and **Aspen Air U.S. Corp.** as borrowers (collectively, the "**Borrowers**" and individually, a "**Borrower**") and **Invico Diversified Income Fund Limited Partnership** as lender (the "**Lender**").

Context

A. The Borrowers issued notices of intention to file proposals under Part III of Division I of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 as amended (the "**BIA**", and the proceedings commenced thereby, the "**Proposal Proceedings**") and Deloitte Restructuring Inc. was appointed as proposal trustee in the Proposal Proceedings (the "**Trustee**").

B. The Borrowers have requested that the Lender provide interim financing in order to fund certain obligations of the Borrowers during the pendency of the Proposal Proceedings, and the Lender has agreed to provide such interim financing in accordance with the terms and subject to the conditions set out in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. INTERPRETATION

1.1 Capitalized Terms

In this Agreement, in addition to terms defined elsewhere in this Agreement, the following terms have the following meanings:

- (a) "**Administration Charge**" means the administration charge granted in the Order of the Court granted on June 26, 2018 in the Proposal Proceedings to secure the obligations of the Borrowers to pay the professional fees and expenses of their Canadian and US counsel, the Trustee and the Trustee's Canadian and US counsel, as may be amended with the consent of the Lender.
- (b) "**Advance**" and "**Advances**" are defined in Section 2.3(a).
- (c) "**Advance Request**" means a notice from the Borrowers to the Lenders, *inter alia*, requesting an Advance and stating the amount required, and certifying that all conditions to obtaining such Advance in this Agreement have been satisfied, all representations and warranties under Section 5.1 continue to be correct and accurate, no Default or Event of Default has occurred and is continuing, or would result from such Advance, and the Advance complies with the Cash Flow Projections, which notice will be substantially in the form set out on Schedule "A".
- (d) "**Agreement**" means this interim financing credit agreement, as amended, modified, supplemented, varied or restated from time to time.
- (e) "**Applicable Law**" means (i) any domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, rule, regulation, restriction or by-law (zoning or otherwise), (ii) any judgment, order, writ, injunction, decision, ruling, decree or award, (iii) any regulatory policy, practice, guideline or directive, or (iv) any franchise, licence, qualification, authorization, consent, exemption, waiver, right, permit or other approval

of any Governmental Authority, binding on or affecting the Person referred to in the context in which the term is used or binding on or affecting the property of that Person.

- (f) **"BIA"** is defined in Context paragraph A.
- (g) **"Borrowers"** and **"Borrower"** are defined in the introductory paragraph of this Agreement.
- (h) **"Business Day"** means any day other than a Saturday, Sunday or any other day in which banks in Calgary, Alberta are not open for business.
- (i) **"Cash Flow Projection"** and **"Cash Flow Projections"** are defined in Section 6.3(b).
- (j) **"Communication"** means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party.
- (k) **"Claims"** has the meaning given to that term in Section 1.
- (l) **"Court"** means the Court of Queen's Bench of Alberta.
- (m) **"D&O Charge"** means the charge in favour of the directors and officers of the Borrowers granted in the Order of the Court granted on June 26, 2018 in the Proposal Proceedings.
- (n) **"Default"** means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.
- (o) **"Encumbrance"** means any security interest, mortgage, lien (statutory, common law, equitable or otherwise), pledge, assignment, hypothecation, privilege, charge, trust deemed to exist under any Applicable Law or other encumbrance of any kind, or any other agreement or arrangement creating in favour of any claimant or creditor a right relating to any particular Property that is in priority to the right of any ordinary creditors relating to that Property, and including the right of a lessor under a capital lease or operating lease.
- (p) **"Event of Default"** is defined in Section 7.1.
- (q) **"Filing Date"** means June 6, 2018, being the date on which the Proposal Proceedings were commenced.
- (r) **"GAAP"** means International Financial Reporting Standards, including International Accounting Standards and Interpretations together with their accompanying documents which are set by the IFRS Foundation, and the IFRS Interpretations Committee, but only to the extent adopted by the Canadian Institute of Chartered Accountants as Generally Accepted Accounting Principles in Canada, and then subject to such modifications as are agreed to by that body.
- (s) **"Governmental Authority"** means any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency,

commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory, or taxing authority or power of any nature; and any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them.

- (t) **"Indemnified Persons"** is defined in Section 1.
- (u) **"Interim Facility"** is defined in Section 2.1.
- (v) **"Interim Facility Charge"** means a charge granted in favour of the Lender by the Court pursuant to the Interim Facility Order and any other Proposal Order securing the Interim Facility Obligations, which charge shall be in form and substance acceptable to the Lender.
- (w) **"Interim Facility Loan Documents"** means this Agreement and any other documents required under this Agreement (all of which shall be in form and substance satisfactory to the Lender).
- (x) **"Interim Facility Obligations"** means indebtedness, liabilities and obligations of the Borrowers to the Lender under this Agreement and the other Interim Facility Loan Documents, including the aggregate principal amount owing under the Interim Facility, all accrued and unpaid interest, and all fees and expenses incurred by the Lender in connection with the Interim Facility.
- (y) **"Interim Facility Order"** means an order of the Court authorizing the Interim Facility and this Agreement, creating the Interim Facility Charge, and providing that the Interim Facility Charge shall have priority over all Encumbrances other than the Administration Charge and the Yellowstone Tax Claim, in form and substance acceptable to the Lenders.
- (z) **"Lender"** is defined in the introductory paragraph of this Agreement.
- (aa) **"Material Adverse Effect"** means an effect that results in or causes, or could reasonably be expected to result in or cause, a material adverse change in any of (i) the condition (financial or otherwise), business, performance, prospects, operations or Property of the Borrowers or any of them, (ii) the ability of any Borrower to perform its obligations under any Interim Facility Loan Document, or (iii) the validity or enforceability of any Interim Facility Loan Document or the rights and remedies of the Lender under any Interim Facility Loan Document.
- (bb) **"Material Contract"** means any contract reasonably deemed material to the business of either Borrower by the Lender.
- (cc) **"Maturity Date"** means the date that is nine months after the date on which the Interim Facility Order is granted.
- (dd) **"Maximum Amount"** has the meaning given thereto in Section 2.1.
- (ee) **"Parties"** means collectively the Borrower and the Lender, and **"Party"** means any one of them.

(ff) **"Permitted Encumbrances"** means:

- (i) inchoate or statutory liens or trust claims for taxes, assessments and other charges or levies by any Governmental Authority which are not delinquent or the validity of which are currently being contested in good faith by appropriate proceedings, provided that there will have been set aside a reserve to the extent required by GAAP in an amount which is reasonably adequate with respect thereto;
- (ii) the right reserved to, or vested in, any municipality or other Governmental Authority by the terms of any lease, license, franchise, grant, or permit acquired by a Borrower, or by any statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition of its continuance;
- (iii) inchoate or statutory liens of builders, contractors, subcontractors, mechanics, suppliers, materialmen and others in respect of construction, maintenance, repair or operation of assets or properties, or other like possessory liens and public utility liens provided the same are not registered as Encumbrances against the title to any real or personal property of a Borrower;
- (iv) an Encumbrance granted by a Borrower to a public utility, municipality or other Governmental Authority when required by such entity in connection with the operations of a Borrower in the ordinary course of business;
- (v) title defects which are of a minor nature and in the aggregate will not materially impair the value or the use of Property for the purposes for which it is held;
- (vi) the reservations, limitations, provisos and conditions, if any, expressed in any original grants from the Crown;
- (vii) Encumbrances securing appeal bonds or similar Encumbrances arising in connection with court proceedings (including surety bonds, security for costs of litigation where required by law and letters of credit) or any other instrument serving a similar purpose;
- (viii) the Proposal Charges;
- (ix) the Yellowstone Tax Claim; and
- (x) other Encumbrances which have been disclosed in writing to the Lender and to which the Lenders have consented in writing

(gg) **"Person"** will be broadly interpreted and includes: a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person; a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an unincorporated organization or any other association, organization or entity of any kind; and a Governmental Authority.

- (hh) **"Priority Payables"** means any indebtedness, liabilities or obligations of any Borrower secured by any Encumbrance that ranks in priority to the Interim Facility Charge.
- (ii) **"Property"** means any or all now owned or hereafter acquired undertaking, property and assets of any or all of the Borrowers, whether real and personal, tangible or intangible.
- (jj) **"Proposal"** means a proposal in connection with the Borrowers under the *BIA*, which shall be in form and substance satisfactory to the Lender.
- (kk) **"Proposal Charges"** means the Administration Charge, the Interim Facility Charge, the D&O Charge and any other Court ordered charge consented to by the Lender.
- (ll) **"Proposal Orders"** means any Order of the Court or any appellate court of competent jurisdiction therefrom in the Proposal Proceedings, including the Interim Facility Order.
- (mm) **"Proposal Proceedings"** has the meaning given to that term in Context paragraph A.
- (nn) **"Taxes"** has the meaning given thereto in Section 2.6.
- (oo) **"13 Week Cash Flow Projections"** means rolling 13 week cash flow forecast of the Borrower setting out expected receipts and disbursements, with a reconciliation to monthly results and working capital account movements.
- (pp) **"Trustee"** is defined in Context paragraph A.
- (qq) **"Withholding Taxes"** has the meaning given thereto in Section 2.6.
- (rr) **"Yellowstone Tax Claim"** means the claim against the real property of Aspen Air U.S. Corp. in the United States by the Yellowstone County Treasurer in respect of property taxes owing by Aspen Air U.S. Corp. in the approximate amount of CAD \$625,000.

1.2 Certain Rules of Interpretation

- (a) In this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words "including" or "includes" in this Agreement is to be construed as meaning "including, without limitation" or "includes, without limitation", respectively.
- (b) The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (c) References in this Agreement to an Article, Section or Schedule are to be construed as references to an Article, Section, Schedule of or to this Agreement unless otherwise specified.
- (d) Time is of the essence in all respects of this Agreement.
- (e) Unless otherwise specified in this Agreement:

- (i) time periods within which or following which any calculation or payment is to be made, or action is to be taken, will be calculated by excluding the day on which the period begins and including the day on which the period ends; and
 - (ii) if the last day of a time period is not a Business Day, the time period will end on the next Business Day.
- (f) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations and subordinate legislation made under or in connection with that statute at any time, and is to be construed as a reference to that statute as amended, modified, restated, supplemented, extended, re-enacted, replaced or superseded at any time.
- (g) References to an amount of money in this Agreement will, unless otherwise expressly stated, be to that amount in Canadian Dollars.

2. INTERIM FACILITY

2.1 Interim Facility

- (a) The Lender agrees to establish in favour of the Borrowers a non-revolving secured first priority interim credit facility (the "**Interim Facility**") in an aggregate maximum principal amount of Cdn. \$250,000 (the "**Maximum Amount**"). The Interim Facility Obligations shall be joint and several obligations of the Borrowers to the Lender.
- (b) The commitment of the Lender to provide the Interim Facility shall expire on the Maturity Date, whereupon all outstanding Interim Facility Obligations shall become immediately due and payable, without the Lender being required to make demand upon the Borrower or to give notice that the Interim Facility has expired and the obligations are due and payable.
- (c) No Proposal Order approving a Proposal shall discharge or otherwise affect in any way any of the Interim Facility Obligations, other than after the permanent and indefeasible payment in cash to the Lender of all Interim Facility Obligations on or before the date the Proposal is implemented.

2.2 Purpose

The Borrowers are authorized to use Advances for working capital, including for restructuring costs in the Proposal Proceedings and for other general corporate purposes of the Borrowers and to pay the fees and expenses of the beneficiaries of the Administration Charge, including the professional fees and expenses of the Trustee and of Canadian and US counsel to the Borrowers and the Trustee, in each case consistent with and as specifically provided for in the Cash Flow Projections; provided that no proceeds from the Interim Facility shall be used other than in accordance with this Agreement unless otherwise agreed in writing by the Lender.

2.3 Availability

- (a) Subject to the satisfaction of the conditions in Sections 4.1 and 4.2, advances under the Interim Facility (each, an "**Advance**") will be available as follows by Canadian dollar advances in aggregate amounts equal to \$10,000 and multiples thereof.

- (b) The Borrowers will deliver an Advance Request to the Lender, setting out the amount of the Advance requested, two (2) Business Days prior to the date on which an Advance is scheduled.
- (c) For greater certainty, at all times the aggregate amount of outstanding Advances under the Facility will not exceed the Maximum Amount.

2.4 Payments

- (a) The Borrowers may make payments on account of the outstanding Interim Facility Obligations at any time and from time to time without bonus or penalty but on two (2) Business Days written notice to the Lender and any amounts so repaid cannot be reborrowed.
- (b) All payments received by the Lender under this Agreement and the Interim Facility Loan Documents will, in the discretion of the Lender, be applied first to any fees due to the Lender and any expenses of the Lender, then to accrued and unpaid interest, and then to principal.
- (c) The Lender will maintain accounts and records evidencing the Advances and all other Interim Facility Obligations owed by the Borrower to the Lender under the Interim Facility Loan Documents. The Lender's accounts and records will constitute prima facie evidence of the Interim Facility Obligations in the absence of manifest error.

2.5 Interest

- (a) The Interim Facility Obligations will bear interest at 10% per annum, calculated monthly and payable on the Maturity Date.
- (b) Interest on each Advance will accrue from day to day and will be calculated from and after the making of each Advance to, but excluding, the date of repayment, as well as after as before the Maturity Date, the occurrence of an Event of Default and demand and both before and after judgment, and will be calculated on a monthly basis on the principal amount of such Advance, and any Interim Facility Obligations accruing thereon or arising from time to time, and on the basis of the actual number of days elapsed in a year of 365 or 366 days, as the case may be. All accrued interest will be payable in full by the Borrower to the Lenders on the Maturity Date. Interest on overdue amounts will be calculated at a rate equal to the above rate plus 5%.
- (c) The annual rate of interest referred to in this Agreement is based on a calendar year of 365 or 366 days, as the case may be. For purposes of the *Interest Act* (Canada), the principle of deemed reinvestment of interest will not apply to any interest rate calculation under this Agreement, and the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.
- (d) In the event that any provision of this Agreement would oblige the Borrowers to make any payment of interest or any other payment which is construed by a court of competent jurisdiction to be interest in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Lender of interest at a criminal rate (as those terms are construed under the *Criminal Code* (Canada)), then notwithstanding that provision, that amount or rate will be deemed to have been

adjusted *nunc pro tunc* to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by the Lender of interest at a criminal rate, that adjustment to be effected, to the extent necessary, as follows:

- (i) first, by reducing the amount or rate of interest required to be paid under this Agreement; and
 - (ii) second, by reducing any fees, commissions, premiums and other amounts which would constitute interest for the purposes of Section 347 of the *Criminal Code* (Canada).
- (e) If, despite giving effect to all adjustments contemplated by 3.3(d), the Lender has received an amount in excess of the maximum permitted by that clause, then that excess will be applied by the Lender to the reduction of the outstanding principal balance of the Interim Facility Obligations and not to the payment of interest, or if that excessive interest exceeds that outstanding principal balance, that excess will be refunded to the Borrowers.

2.6 Taxes

All payments by any Borrower under this Agreement and the other Interim Facility Loan Document, including any payments required to be made from and after the exercise of any remedies available to the Lender upon an Event of Default that is continuing, shall be made free and clear of and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision or any country (collectively "**Taxes**"); provided, however, that if any Taxes are required by Applicable Law to be withheld ("**Withholding Taxes**") from any amount payable to the Lender under any Interim Facility Loan Documents, the amount so payable to the Lender shall be increased to the extent necessary to yield to the Lender on a net basis after payment of all Withholding Taxes the amount payable under such Interim Facility Loan Document at the rate or in the amount specified in such Interim Facility Loan Document, and the Borrowers shall provide evidence satisfactory to the Lender that the Taxes have been so withheld and remedied.

3. Security

The payment and performance of the Interim Facility Obligations shall be secured by a charge created by the Interim Facility Order (the "**Interim Facility Charge**"), which Interim Facility Charge will, pursuant to the terms of the Interim Facility Order, rank in priority to all other Encumbrances against the Property other than the Administration Charge and the Yellowstone Tax Claim.

4. CONDITIONS PRECEDENT

4.1 Conditions to Effectiveness of Interim Facility

The Interim Facility will become effective upon the satisfaction or waiver of the following conditions precedent:

- (a) the Court shall have issued the Interim Facility Order;

- (b) the Interim Facility Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, varied, restated or modified in a way that adversely impacts the rights and interests of the Lender, without the consent of the Lender;
- (c) the Interim Facility Loan Documents shall be satisfactory in form and substance to the Lender, and shall have been duly executed by the Borrower;
- (d) the Lender shall have received the Cash Flow Projections, which will be in form and substance satisfactory to the Lender;
- (e) all of the representations and warranties of the Borrower as set forth herein will be true and correct in every material respect;
- (f) there shall be no Encumbrances ranking in priority to the Interim Facility Charge, other than the Administration Charge and the Yellowstone Tax Claim; and
- (g) the Lender will have received four (4) duly executed copies of this Agreement.

4.2 Conditions Precedent to Each Advance

The Lender's obligation to make an Advance to the Borrowers is subject to the satisfaction of the following conditions precedent:

- (a) the Lender shall have received from the Borrowers an Advance Request duly executed by a senior officer of each Borrower, certifying, *inter alia*, that the Advance Request is within the Maximum Amount, is consistent with the most recent Cash Flow Projections, and that the Borrowers are in compliance with the Interim Facility Credit Documents and the Proposal Orders;
- (b) the Lender shall be satisfied that the Borrowers have complied, and are continuing to comply, in all material respects with all Applicable Laws and Proposal Orders;
- (c) the requested Advance shall not, if advanced to the Borrowers, cause the aggregate outstanding principal amounts under the Interim Facility to exceed the Maximum Amount or be greater than the total Advances projected to be required in the Cash Flow Projections, unless otherwise specifically approved by the Lender;
- (d) all of the representations and warranties of the Borrowers in this Agreement are true and accurate in all material respects;
- (e) no Default or Event of Default has occurred or will occur as a result of the requested Advance;
- (f) the Lender shall be satisfied that no Material Adverse Change shall have occurred after the Filing Date;
- (g) there shall be no Encumbrances ranking in priority to the Interim Facility Charge, other than the Administration Charge and the Yellowstone Tax Claim; and

- (h) the Interim Facility Order shall be in full force and effect and shall not have been reversed, modified, amended or stayed in a manner adverse to the interests of the Lender.

4.3 Waiver

The conditions set forth in Sections 4.1 and 4.2 are inserted for the sole benefit of the Lender and may be waived by the Lender, in whole or in part (with or without terms or conditions) without prejudicing the right of the Lender at any time to assert such waived conditions in respect of any subsequent Advance.

5. REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties

To induce the Lender to enter into this Agreement and to make the Interim Facility available to the Borrowers and make Advances under this Agreement, the Borrowers hereby represent and warrant to the Lender the following (which representations and warranties will be deemed to be repeated immediately prior to each Advance being made to the Borrowers):

- (a) the Borrowers are duly incorporated and existing under the laws of governing their incorporation;
- (b) subject to the granting of the Interim Facility Order, the Borrowers have the full power and capacity to enter into and perform its obligations under the Interim Facility Loan Documents;
- (c) the execution and delivery by the Borrowers of, and the performance of the obligations of the Borrowers under, the Interim Facility Loan Documents have been duly authorized by all necessary action on the part of the Borrowers;
- (d) subject to the granting of the Interim Facility Order, the execution, delivery and performance by each Borrower of the Interim Facility Loan Documents does not conflict with or contravene or constitute a default under (i) its articles of incorporation or by-laws; (ii) any agreement or instrument to which it is party or by which it is bound; (iii) any Proposal Order; or (iv) any Applicable Law;
- (e) except for the granting of the Interim Facility Order, the Interim Facility Loan Documents do not require the consent or approval of, registration or filing with, or any other action by, any Governmental Authority or any third party, other than filings which may be made;
- (f) the Interim Facility Loan Documents have been duly executed and delivered by the Borrowers and, upon the granting of the Interim Facility Order, will constitute legally valid and binding obligations of the Borrowers, enforceable against it in accordance with its terms;
- (g) as of the date hereof, all information provided by the Borrowers to the Lender and the Trustee is true, correct and complete, and does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, and all responses by each Borrower to inquiries of the Lender and

the Trustee concerning the Borrowers and their business and affairs have been made in good faith and to the best of their knowledge; and

- (h) except to the extent disclosed to the Trustee or the Lenders, the Borrowers have complied with their obligations for payroll, source deductions, retail sales tax, goods and services tax and harmonized sales tax and other Priority Payables, as applicable, and are not in arrears in respect of payment of these obligations.

5.2 Nature and Effective Time of the Representations and Warranties

- (a) All representations and warranties, when repeated or deemed to be repeated under this Agreement, will be construed with reference to the facts and circumstances existing at the time of repetition, unless they are stated herein to be made as of a specific date only.
- (b) The representations and warranties set out in, or deemed to be made pursuant to, this Agreement will survive the execution and delivery of this Agreement and the making of any Advance, notwithstanding any investigations or examinations that may be made by the Lender or its counsel. Such representations and warranties will survive until this Agreement has been terminated.

6. COVENANTS

6.1 Positive Covenants

Until the Interim Facility Obligations have been repaid in full and the Interim Facility terminated, the Borrowers covenant and agree to do or cause to be done the following:

- (a) provide to the Lender and its counsel with copies of all motions or applications and other documents that the Borrowers intend to file with the Court at least one (1) Business Day prior to the date on which the Borrowers file such documents in order to permit the Lender to satisfy itself that such document is not materially prejudicial to the Lender;
- (b) comply with all Proposal Orders, except to the extent such Proposal Orders have been in whole or in part stayed, reversed, modified or amended;
- (c) pay promptly when due all amounts that the Borrowers are permitted or required to pay under any Proposal Order to the extent provided for in the Cash Flow Projections;
- (d) cooperate fully with the Trustee, provide the Trustee with access to all books, records and personnel of the Borrowers and make available to the Trustee any senior officers, directors or employees of Borrowers required by the Trustee to carry out its duties;
- (e) permit the Lender on reasonable notice and during regular business hours to enter on and inspect the Borrowers' Property, books and records;
- (f) conduct all activities and make all expenditures in a manner consistent with the Cash Flow Projections; and

- (g) deposit all revenues of the Borrowers or proceeds of sale of any Property shall be deposited into an account the details of which have been provided in writing to the Lender.

6.2 Negative Covenants

Until the Interim Facility Obligations have been repaid in full and the Interim Facility terminated, without the prior written consent of the Lender, the Borrowers covenants and agrees that they shall not:

- (a) apply for or consent to any change, amendment or modification to any Proposal Order, or fail to oppose any application or motion for a change, amendment or modification to such Proposal Orders which is materially prejudicial to the effectiveness or priority of the Interim Facility Charge;
- (b) after the Filing Date, incur any Debt Obligation other than under the Interim Facility or other than a Debt Obligation which it is permitted to incur under the Proposal Orders and is contemplated by the Cash Flow Projections;
- (c) make any payment of any Debt Obligation outstanding on the Filing Date other than as may be permitted by a Proposal Order consented to by the Lender and contemplated by the Cash Flow Projections, or otherwise as may be permitted by the Lender;
- (d) create, assume, incur or suffer to exist any Encumbrance during the Proposal Proceedings ranking senior to or *pari passu* with the Interim Facility Charge, other than the Administration Charge and the Yellowstone Tax Claim, provided that the Borrowers may suffer to exist Permitted Encumbrances existing prior to the Filing Date so long as the Debt Obligations secured thereby do not increase;
- (e) sell, assign, transfer, convey, lease (as lessor), contribute or otherwise dispose of, or grant options, warrants or other rights with respect to, any of their respective Property, other than sales of inventory in the ordinary course of business or as otherwise contemplated in any Proposal Order consented to by the Lender;
- (f) except to the extent agreed to by the Lender, take any steps that would cause the Lender to be an affected creditor in the Proposal Proceedings, or that would cause the rights or remedies of the Lender under this Agreement, the Interim Facility Loan Documents or Applicable Law to be subject to any compromise or arrangement under any Proposal; or
- (g) cancel, terminate, amend or otherwise modify any Material Contract to which it is a party.

6.3 Reporting Covenants

Until the Interim Facility Obligations have been repaid in full and the Interim Facility terminated, without the prior written consent of the Lender, the Borrowers covenant and agree that they shall:

- (a) provide to the Lender timely updates on all material developments in the Proposal Proceedings, the Sale Procedure, negotiations of the Proposal with Affected Creditors, any claims process and generally with respect to the Property, business and affairs of

the Borrowers, which updates shall include calls between senior management of the Borrowers and representatives of the Trustee and the Lender on a weekly basis and on dates and at times convenient to the Lender, acting reasonably;

- (b) with the assistance of the Trustee, keep the Lender informed on a bi-weekly basis of the cash flow requirements of the Borrowers by providing cash flow and cash requirement projections together with actual cash flow results from the prior two (2) weeks, comparing the forecast to actual cash receipts and expenditures for each line item therein, in a form consistent with the 13 Week Cash Flow Projections and in form and content satisfactory to the Lender, which projections will be provided by no later than 5:00 p.m. (Calgary time) on the second Thursday following each bi-weekly period end (individually, a "**Cash Flow Projection**", and collectively, the "**Cash Flow Projections**"), together with a memorandum in writing from a senior officer of each Borrower explaining any changes in the actual cash flow from the previous Cash Flow Projections;
- (c) provide the Lender with evidence of payment of all Priority Claims within 15 Business Days of the due date;
- (d) as soon as practicable and in any event by no later than the first Business Day of each week, a statement listing all new sales contracts, terminations, significant volume changes or other amendments to the current sales contracts to which the Borrower is a party and prospective sales in the past week, in form and content satisfactory to the Lender;
- (e) as soon as practicable and in any event by no later than the last Business Day of each month, a statement summarizing the status of the Borrower's operations, in form and content satisfactory to the Lender;
- (f) provide the Lender with prompt written notice of:
 - (i) any Material Adverse Effect, of any Default or Event of Default, or any breach of any Proposal Order;
 - (ii) any action, investigation, suit, proceeding, claim or dispute before any Governmental Authority affecting the Borrower which is not stayed by the Proposal Orders or any application or motion by a Governmental Authority to lift the stay of proceedings in the Proposal Proceedings to permit such action, investigation, suit, proceeding, claim or dispute;
- (g) deliver to the Lender any financial statements and other information concerning the Borrower that the Lender may request, in a form which is acceptable to the Lender; and
- (h) as soon as practicable and in any event by no later than the 15th day of the next following calendar month, financial information for the Borrowers in the form of the trial balance for the immediately preceding month, together with comparative figures for the corresponding period in the previous fiscal year.

All information provided by the Borrowers to the Lender and the Trustee shall be, to the knowledge of Borrowers, true, accurate and complete, and shall not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, all

responses by the Borrowers to inquiries of the Lender and the Trustee concerning the Borrowers and their business shall be made in good faith and to the best of their knowledge, and all forward looking information and future oriented financial information provided to the Lender and the Trustee shall be based upon assumptions that are reasonable in the circumstances.

7. EVENTS OF DEFAULT AND REMEDIES

7.1 Events of Default

The occurrence of any of the following events shall constitute an event of default under this Agreement (each, an “**Event of Default**”):

- (a) if the Borrowers fail to pay the Interim Facility Obligations on the Maturity Date;
- (b) if the Court makes a Proposal Order:
 - (i) which is contrary to Section 6.2(f);
 - (ii) dismissing or terminating the Proposal Proceedings or lifting the stay in the Proposal Proceedings to permit (A) the enforcement of any Encumbrance against a Borrower, or a material portion of its Property, or (B) the appointment of a receiver and manager, receiver, or similar official or the making of a bankruptcy order against the Property of a Borrower;
 - (iii) granting any Encumbrance which is senior to or *pari passu* with the Interim Facility Charge, other than the Administrative Charge;
 - (iv) staying, reversing, vacating or otherwise modifying the Interim Facility Order or any Proposal Order in a manner which is materially prejudicial to the effectiveness or priority of the Interim Facility Charge;
 - (v) materially prejudicing the effectiveness or priority of the Interim Facility Charge without the prior written consent of the Lender;
 - (vi) materially impairing the ability of the Borrowers to comply with their obligations under this Agreement or the Interim Facility Loan Documents; or
 - (vii) permits a Proposal to be filed and voted upon by the creditors of the Borrowers which does not provide for the Interim Facility Obligations to be repaid in full on or before implementation of such Proposal or otherwise provided for in a manner acceptable to the Lender;
- (c) the filing of any pleading by the Borrowers seeking any of the matters set forth in clause (b) above or the failure of the Borrowers to diligently oppose any Person that brings an application or motion for the relief set out in clause (b) above and fails to secure the dismissal of such motion or application upon the hearing of the same;
- (d) if the Borrowers breach any of their duties or obligations under any Proposal Order and such breach has or could be reasonably be expected to have a Material Adverse Effect;

- (e) if any Cash Flow Projection contemplates or forecasts a material adverse variance from the previous Cash Flow Projection by more than 15%, including that the Borrowers will have insufficient funding under the this Agreement or otherwise to meet its expenditure requirements under the Cash Flow Projection;
- (f) if the Borrowers fail to comply with their obligations under:
 - (i) this Agreement or the Interim Facility Loan Documents; or
 - (ii) any agreement with any other Person where such Person is not stayed under the *BIA* or pursuant to the Proposal Orders from exercising any rights or remedies against the Borrower as a result of such failure;
- (g) if any representation, warranty or acknowledgement made or deemed to be made in this Agreement, or any information provided by a Borrower to the Lender or the Trustee, is untrue in any material respect; or
- (h) if the Borrowers are not in compliance with any Applicable Law, except to the extent that such non-compliance does not have, and could not reasonably be expected to have, a Material Adverse Effect.

7.2 Remedies for an Event of Default

Upon the occurrence and during the continuance of any Event of Default, the Lender may do any one or more of the following, all of which is authorized by the Borrowers:

- (a) by written notice to the Borrowers, declare the Interim Facility to be terminated, whereupon the Lender will have no further obligation to make any Advance available to the Borrowers under the Interim Facility;
- (b) by written notice to the Borrowers, declare all of the Interim Facility Obligations to be immediately due and payable without further demand, presentation, protest or other notice of any kind, all of which are expressly waived by the Borrower;
- (c) apply to the Court for the lifting of the stay in the Proposal Proceedings and the appointment of any receiver, receiver and manager of the Property of the Borrowers; and
- (d) exercise any other action, suit, remedy or proceeding authorized or permitted by the Interim Facility Loan Documents or by Applicable Law, including specifically performing any covenant or agreement contained in the Interim Facility Loan Documents, enjoining any violation of any of the terms of the Interim Facility Loan Documents, exercising any power granted by the Interim Facility Loan Documents or by Applicable Law, or obtaining judgment for and recovering all amounts due and owing relating to the Interim Facility Obligations.

7.3 Waivers

No delay on the part of the Lender in exercising any power, right or remedy under any Interim Facility Loan Document will operate as a waiver of that power, right or remedy, no waiver of any Default or Event of Default will operate as a waiver of that Default or Event of Default unless made in writing and

signed by an authorized officer of the Lender, and any single or partial exercise by the Lender of any power, right or remedy for a Default or Event of Default will not be deemed to be a waiver of or to alter, affect or prejudice any other power, right or remedy to which the Lender may be lawfully entitled relating to that Default or Event of Default. No written waiver will preclude the exercise by the Lender of any power, right or remedy under any Interim Facility Loan Document other than relating to the specific action or inaction covered by that waiver and strictly in accordance with the terms of that waiver, or extend to or apply to any other Default or Event of Default. The Lender will not be deemed to have waived, by reason of making available any Advance, any Default or Event of Default, including any Default or Event of Default arising from any representation or warranty made or deemed to have been made in any Interim Facility Loan Document proving to be false or incorrect.

7.4 Non-Merger

Obtaining any judgment, or taking any action or proceeding, by the Lender under any Interim Facility Loan Document will not operate as a merger of any Interim Facility Obligations, or in any way suspend payment or affect or prejudice the powers, rights and remedies, legal or equitable, which the Lender may have in connection with the Interim Facility Obligations. The surrender or cancellation of, or any other dealings with, any security will not release or affect the Interim Facility Obligations.

7.5 Lender May Perform Covenants

If the Borrowers fail to perform any covenant on their part in this Agreement, the Lender may, but is not required to, perform that covenant if it is capable of being performed by the Lender and, if that covenant requires the payment of money, the Lender may, but is not required to, make that payment with its own funds. All amounts paid by the Lender under this Section will be repaid by the Borrowers on demand for payment, will bear interest at the rate stipulated and in the manner calculated in Section 2.5), commencing on the day of payment of those amounts by the Lender, and form part of the Interim Facility Obligations and be secured by the Interim Facility Security.

7.6 Remedies Cumulative

The rights, powers and remedies under the Interim Facility Loan Documents are cumulative and are in addition to and not in substitution for any other rights, powers and remedies available at law or in equity or otherwise. No single or partial exercise by the Lender of any right, power or remedy precludes or otherwise affects the exercise of any other right, power or remedy to which the Lender may be entitled.

8. MISCELLANEOUS PROVISIONS

8.1 Indemnity and Release

The Borrowers agree to indemnify and hold harmless the Lender and its directors, officers, employees, agents, counsel, advisors and affiliates (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against or involve any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to or resulting from the Interim Facility, this Agreement or any other Interim Facility Loan Document (regardless of whether such Claim is made in the Proposal Proceedings or any other proceeding, including any bankruptcy or insolvency proceeding) and, upon demand, to pay and reimburse any Indemnified Person for any legal or other reasonable

and documented out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding (including, without limitation any inquiry or investigation) or claim (whether or not any Indemnified Person is a party to any action or proceeding out of which any such expenses arise); provided, however, no Borrower shall be obligated to indemnify pursuant to this Section any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence or willful misconduct of such Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any claims arising out of any act or omission on the part of such Borrower. The Borrowers shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages. The indemnities granted under this Agreement shall survive any termination of this Agreement or the Interim Facility.

8.2 Expenses

The Borrowers hereby absolutely and unconditionally agree to pay to and fully indemnify the Lender, on demand by the Lender at any time and as often as may be required, whether or not all or any of the transactions contemplated by this Agreement are consummated, all reasonable and documented fees and disbursements of counsel to the Lender, any other consultant or agent and all other reasonable expenses incurred by the Lender in connection with this Agreement, the Interim Facility and the Interim Facility Loan Documents, including (a) legal expenses in connection with the preparation, negotiation and interpretation of this Agreement and the other Interim Facility Loan Documents and the administration of the Interim Facility generally; (b) all expenses of advisors and consultants to the Lender (including legal expenses on a full indemnity basis) incurred connection with the protection and enforcement of this Agreement or the Interim Facility Loan Documents or in connection with any proceeding in respect of bankruptcy, insolvency, winding up, receivership, dissolution, reorganization, liquidation, moratorium, arrangement or assignment for the benefit of creditors involving any Borrower, in each of the foregoing events whether under any Insolvency Law.

8.3 Communications

Except as otherwise expressly provided for in this Agreement, any Communication must be in writing and either delivered personally or by courier, sent by prepaid registered mail, or transmitted by facsimile, e-mail or functionally equivalent electronic means of transmission, charges (if any) prepaid. Any Communication must be sent to the intended recipient at its address as follows:

- (a) to the Borrower at:

Attention:

Email:

- (b) to the Lender at:

Attention:

Email:

or at any other address as any Party may at any time advise the others by Communication given or made in accordance with this Section 8.3. Any Communication delivered to the Party to whom it is

addressed will be deemed to have been given or made and received on the day it is delivered at that Party's address, provided that if that day is not a Business Day then the Communication will be deemed to have been given or made and received on the next Business Day. Any Communication sent by prepaid registered mail will be deemed to have been given or made and received on the fifth Business Day after which it is mailed. If a strike or lockout of postal employees is then in effect, or generally known to be impending, every Communication must be delivered personally or by courier or transmitted by facsimile, e-mail or functionally equivalent electronic means of transmission. Any Communication transmitted by facsimile, e-mail or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but if the Communication is transmitted on a day which is not a Business Day or after 5:00 p.m. (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

8.4 Governing Law

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Alberta and the laws of Canada applicable in that Province.

8.5 Submission to Jurisdiction

Without prejudice to the ability of the Lender to enforce this Agreement or any other Interim Facility Loan Document or the Interim Facility Charge in any other proper jurisdiction, the Borrowers irrevocably and unconditionally submits and attorns to the non-exclusive jurisdiction of the Court to determine all issues, whether at law or in equity, arising from this Agreement. To the extent permitted by Applicable Law, the Borrowers:

- (a) irrevocably waive any objection, including any claim of inconvenient forum, that they may now or in the future have to the venue of any legal proceeding arising out of or relating to this Agreement in the Court, or that the subject matter of this Agreement may not be enforced in the Court;
- (b) irrevocably agree not to seek, and waive any right to, judicial review by any court which may be called upon to enforce the judgment of the courts referred to in this Section 8.5, of the substantive merits of any suit, action or proceeding; and
- (c) to the extent the Borrowers have or may acquire any immunity from the jurisdiction of any court or from any legal process, whether through service or notice, attachment before judgment, attachment in aid of execution, execution or otherwise, with respect to itself or its Property, the Borrowers irrevocably waive that immunity in respect of their obligations under this Agreement.

8.6 Entire Agreement

This Agreement, together with any other Interim Facility Loan Documents, constitute the entire agreement between the Parties pertaining to the subject matter of this Agreement or any Interim Facility Loan Document and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties, and there are no representations, warranties or other agreements between the Parties in connection with the subject matter of this Agreement or any Interim Facility Loan Document except as specifically set out therein. The Borrowers have not been induced to enter into this Agreement or any other Interim Facility Loan Document in reliance on, and there will be no liability assessed, either in tort or contract, with respect to, any warranty,

representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term in this Agreement or in any of the other Interim Facility Loan Document.

8.7 Conflicts

In the event of a conflict in or between the provisions of this Agreement and the provisions of any other Interim Facility Loan Document, then, despite anything contained in that other Interim Facility Loan Document, the provisions of this Agreement will prevail and the provisions of that other Interim Facility Loan Document will be deemed to be amended to the extent necessary to eliminate the conflict. If any act or omission is expressly prohibited under an Interim Facility Loan Document (other than this Agreement) but this Agreement does not expressly permit that act or omission, or if any act is expressly required to be performed under an Interim Facility Loan Document (other than this Agreement) but this Agreement does not expressly relieve the Borrower from that performance, that circumstance will not constitute a conflict in or between the provisions of this Agreement and the provisions of that other Interim Facility Loan Document.

8.8 Severability

Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part, or the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.

8.9 Amendment and Waiver

No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any Section of this Agreement is binding unless it is in writing and executed by the Party to be bound. No waiver of, failure to exercise, or delay in exercising, any Section of this Agreement constitutes a waiver of any other Section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

8.10 Assignment

None of this Agreement, the other Interim Facility Loan Documents or any rights, remedies or obligations under them may be assigned by the Borrowers without the prior written consent of the Lender.

8.11 Enurement

This Agreement enures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

8.12 Counterparts and Electronic Delivery

This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which will be an original, and each of which may be delivered by facsimile, e-mail or other functionally equivalent electronic means of transmission, and those counterparts will together constitute one and the same instrument.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement as of the date first written above.

Borrowers:

Aspen Air Corporation

By:



Name: **Onkar Dhaliwal**

Title: **President & CEO**

Aspen Air U.S. Corp.

By:



Name: **Onkar Dhaliwal**

Title: **President & CEO**

Lender:

Invico Diversified Income Fund Limited Partnership

By:

Name:

Title:

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement as of the date first written above.

Borrowers:

Aspen Air Corporation

By:

Name:

Title:

Aspen Air U.S. Corp.

By:

Name:

Title:

Lender:

Invico Diversified Income Fund Limited Partnership

By:



Name: Allison Taylor

Title: CEO, CCO

Schedule "A"
Advance Request

TO: **Invico Diversified Income Fund Limited Partnership**, as Lender

RE: Interim Financing Credit Agreement dated as of August •, 2018 between **Aspen Air Corporation** and **Aspen Air U.S. Corp.** as borrowers (collectively, the "**Borrowers**" and individually, a "**Borrower**") and **Invico Diversified Income Fund Limited Partnership** as lender (the "**Lender**") (as confirmed, amended, supplemented or restated at any time, the "**Credit Agreement**")

1. Capitalized terms not otherwise defined in this Advance Request have the meanings given to them in the Credit Agreement.

2. Except as described in an Appendix ____ to this Advance Request, the Borrowers certify that:

- (a) no Default or Event of Default has occurred and is continuing or will result from an Advance pursuant to this Advance Request;
- (b) all representations and warranties of the Borrowers in Section 5.1 of the Credit Agreement continue to be true and correct in every material respect as if made on the date of this Advance Request;
- (c) each Borrower is in compliance with its obligations under the Proposal Orders; and
- (d) the Cash Flow Projections attached as Appendix ____ to this Advance Request are the most recent Cash Flow Projections prepared by the Borrowers and are in compliance with the requirements set out in the Credit Agreement; and
- (e) the amounts requested in this Advance Request are consistent with the Cash Flow Projections.

3. The date on which the Advance requested in this Advance Request is required is _____, 2018.

4. The amount of the Advance requested in this Advance Request is \$_____.

DATED _____, 2018, at _____.m., _____ time.

Aspen Air Corporation

By: _____

Name: _____

Title: _____

Aspen Air U.S. Corp.

By: _____

Name: _____

Title: _____

**Schedule “B”
Cash Flow Projections**

See attached.

Aspen Air Corporation ("Aspen") and Aspen Air U.S. Corp. ("Aspen US", collectively the "Aspen Companies")

Statement of Projected Cash Flow

For the thirteen week period ending November 3, 2018

	Week ended: 11-Aug-18	18-Aug-18	24-Aug-18	1-Sep-18	8-Sep-18	15-Sep-18	22-Sep-18	29-Sep-18	6-Oct-18	13-Oct-18	20-Oct-18	27-Oct-18	3-Nov-18	Total	Notes
Receipts															
Account receivables	\$ 268,558	\$ 188,086	\$ 210,503	\$ 159,495	\$ 156,250	\$ 156,250	\$ 156,250	\$ 156,250	\$ 156,250	\$ 156,250	\$ 156,250	\$ 156,250	\$ 156,250	\$ 2,232,894	1
Rental Receipts															
GST collected	1,569	1,676	2,713	162	-	-	-	-	-	-	-	-	-	8,170	2
Total Receipts	270,127	189,764	213,216	159,657	156,250	156,250	156,250	156,250	156,250	156,250	156,250	156,250	156,250	2,239,014	
Disbursements															
Salaries and wages	-	(115,413)	-	(139,413)	-	(60,413)	(4,750)	(105,413)	-	(105,413)	-	(50,000)	(55,413)	(831,475)	3
Employee benefits	-	-	(4,750)	(31,711)	(1,888)	-	(4,750)	(8,725)	(27,563)	(1,433)	-	(4,175)	(27,563)	(101,049)	4
Vehicles and equipment leases	(60,816)	(848)	(10,485)	(65,519)	-	(1,433)	(444)	(8,725)	(65,519)	(1,433)	(1,433)	(9,168)	(65,519)	(288,818)	5 & 17
Fuel	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(65,000)	6
Utilities	(28,750)	(625)	(180,625)	-	(27,500)	(625)	(200,000)	(15,625)	(25,000)	(625)	(131,250)	(11,250)	-	(831,875)	7 & 17
Wages	(3,125)	(8,375)	(9,375)	(9,375)	(3,125)	-	(6,875)	-	(3,125)	(3,125)	(6,875)	-	-	(20,625)	8 & 17
Repair & Maintenance	(1,563)	-	-	(4,500)	(1,563)	-	(3,125)	(3,125)	(6,063)	(3,125)	(3,125)	-	(3,125)	(59,375)	9
Rent	(6,220)	-	(1,008)	-	(5,813)	-	(1,008)	-	(5,813)	-	(1,008)	-	(5,813)	(19,750)	10
Office expenses	(2,350)	(1,850)	(2,163)	(1,500)	(2,475)	(2,163)	(2,163)	-	(2,475)	(2,163)	(2,163)	(2,163)	(2,163)	(27,353)	11 & 17
Insurance	-	(353)	(22,631)	-	(6,274)	(353)	(22,631)	(1,850)	(6,274)	-	(25,831)	-	(6,274)	(67,773)	12 & 17
DIP loan fees	(135,000)	(10,000)	(10,000)	(82,500)	(10,000)	(20,000)	(10,000)	(82,500)	(10,000)	(10,000)	(20,000)	(70,000)	(22,500)	(482,500)	13
Professional fees	(8,750)	(8,750)	(8,750)	(8,750)	(8,750)	(8,750)	(8,750)	(8,750)	(8,750)	(8,750)	(8,750)	(8,750)	(8,750)	(113,750)	14
Contingency	(251,274)	(158,084)	(284,301)	(348,287)	(72,167)	(101,841)	(284,250)	(320,848)	(155,881)	(136,608)	(207,867)	(182,319)	(209,314)	(2,574,034)	15
Total Disbursements	(251,274)	(158,084)	(284,301)	(348,287)	(84,653)	(101,841)	(284,250)	(320,848)	(155,881)	(136,608)	(207,867)	(182,319)	(209,314)	(2,574,034)	
Net Cash Flow	\$ 18,853	\$ 30,676	\$ 51,045	\$ 18,640	\$ 84,653	\$ 54,390	\$ 109,600	\$ 74,738	\$ 15,331	\$ 19,742	\$ 48,317	\$ 7,069	\$ 52,746	\$ 235,020	

Bank Balance															
Beginning Cash Balance	\$ 209,151	\$ 352,704	\$ 383,380	\$ 332,295	\$ 143,655	\$ 227,718	\$ 282,107	\$ 174,107	\$ 99,370	\$ 90,039	\$ 103,781	\$ 158,964	\$ 151,895	\$ 208,151	16
DIP Loan	125,000.00	-	-	-	-	-	-	-	-	-	100,000	-	-	100,000	
Transfer USDCM Bank Account	18,553	30,676	(51,085)	(188,640)	84,063	54,390	(108,000)	(74,738)	(9,331)	19,742	(50,817)	(7,069)	(52,746)	(335,020)	18
Ending Bank Balance	\$ 237,104	\$ 333,380	\$ 332,295	\$ 143,655	\$ 227,718	\$ 282,107	\$ 174,107	\$ 99,370	\$ 90,039	\$ 103,781	\$ 158,964	\$ 151,895	\$ 99,131	\$ 235,020	

Prepared as at the __th day of June, 2018

Purpose:

This Estimated Cash Flow Statement (the "Aspen Companies' Cash Flow") has been prepared by the Aspen Companies' management pursuant to section 50.4(2) of the Bankruptcy and Insolvency Act. It is being filed specifically for the purposes contemplated in that section and readers are cautioned that it may not be appropriate for other purposes. In addition the Cash Flow has been prepared based on assumptions regarding future events; therefore, actual results may vary from the estimates presented herein and these variances may be material.

Aspen Air Corporation

Per: Omer Dhalwal, President & CEO

Debita Restructuring Inc. in their capacity as Trustee
 under the proposal of Aspen Air Corporation and not in
 their personal capacity

Per: Vanessa Allen, Senior Vice-President

Aspen Air Corporation ("Aspen") and Aspen Air U.S. Corp. ("Aspen US", collectively the "Aspen Companies")

Statement of Projected Cash Flow

For the fifteen week period ending November 3, 2018

Notes & Assumptions - General:

1. All amounts are in Canadian dollars unless otherwise specified. All amounts are based on historical data and management estimates.
2. Attached as "Schedule 1" is the Statement of Projected Cash Flow for Aspen Air Corporation.
3. Attached as "Schedule 2" is the Statement of Projected Cash Flow for Aspen Air U.S. Corp.
4. All amounts include applicable GST.
5. All the Aspen Companies are in the process of developing their proposals pursuant to the BIA (the "BIA Proposals"), the Aspen Companies' Cash Flow does not include any payments to creditors pursuant to the BIA Proposals.
6. The Consolidated Cash Flow assumes an exchange rate of \$1.00 USD = \$0.80 CAD and amounts are in Canadian dollars.

Notes & Assumptions - Specific:

1. Represents the collection of accounts receivable, which are subject to 30 to 60 day payment terms.
2. Includes GST collected on accounts receivable for Aspen Air Corporation.
3. Includes GST collected on accounts receivable for Aspen Air Corporation.
4. Includes salaries and wages for 28 employees.
5. Includes benefits payable to Great-West Life Assurance Company and Blue Shield.
6. Includes anticipated fuel payments based on historical weekly averages. Aspen Air Corporation is currently reviewing its go-forward vehicle and equipment needs.
7. Includes payments for electricity for Aspen Air U.S. Corp. plant located at 1524 Lockwood Road in Billings, Montana.
8. Includes utility payments for the plant located at 1524 Lockwood Road in Billings, Montana.
9. A plant maintenance shut-down to repair a crack in the cold box of plant #1 will be performed in late June/early July. This amount includes repair costs estimated at \$150,000 US.
10. Monthly rent of \$12,824 is payable for the premises located at Suite 1460, 10855 Southport Road in Calgary, Alberta. Aspen currently sublets the Premises with the term of the current sublease expiring on December 31, 2018. Aspen is currently in discussions to early terminate the current lease.
11. Includes payments for IT services required for operations.
12. Includes miscellaneous office expenditures.
13. Includes monthly payments for insurance policies held by the Aspen Companies.
14. Aspen is a going concern for the purposes of this statement, which has 28th insurance and exit fees and 10% monthly interest.
15. Includes anticipated legal fees to be paid to Aspen's legal counsel, to the proposed Trustee and to the proposed Trustee's legal counsel.
16. Includes cash held in financial institutions.
17. Includes pre-filing amounts for critical suppliers subject to Court approval of those payments.
18. Aspen Air Corporation and Aspen Air U.S. Corp. are operated on a consolidated basis with funds being transferred between the respective bank accounts as needed.